

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

**CSX TRANSPORTATION, INC.,
individually and on behalf of
NORFOLK AND PORTSMOUTH BELT LINE
RAILROAD COMPANY,**

Plaintiff,

v.

Civil Action No. 2:18-cv-530-MSD-LRL

NORFOLK SOUTHERN RAILWAY COMPANY, *et al.*,

Defendants.

[PROPOSED] ORDER GRANTING MOTION TO SEAL

This matter comes before the Court on defendant Norfolk and Portsmouth Belt Line Railroad Company's motion, pursuant to Local Civil Rule 5 and the Stipulated Protective Order entered on October 29, 2019 (D.E. 79), to file under seal Exhibit A to the memorandum in support of its motion for partial summary judgment on damages, as well as references to the exhibit in the body of the memorandum in support. Exhibit A is a copy of plaintiff CSX Transportation Inc.'s Rule 26(a)(1) disclosures, which were designated by CSXT as "confidential." Upon consideration of the motion and related filings, the Court is of the opinion that the motion should be granted.

There are three requirements for sealing court filings: (1) public notice with opportunity to object; (2) consideration of less drastic alternatives; and (3) a statement of specific findings in support of a decision to seal and reject alternatives to sealing. *Flexible Benefits Council v. Feldman*, No. 1:08-CV-371, 2008 U.S. Dist. LEXIS 93039 (E.D. Va. Nov. 13, 2008) (citing *Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 288 (4th Cir. 2000)). Even when no party challenges a motion to seal, the Court must still ensure the motion is supported by good cause. *Auburn Univ. v. IBM Corp.*, No. 3:0-cv-694-MEF, unpublished, 2010 WL 3927737 (M.D. Ala. Oct. 4, 2010).

The Court finds that Exhibit A to the memorandum in support of the Belt Line's motion for partial summary judgment contains data that is confidential under the Stipulated Protective Order; that public notice has been given; that that no objections have been filed; that the public's interest in access is outweighed by the interests in preserving such confidentiality; and that there are no alternatives that appropriately serve these interests.

Accordingly, the Motion to Seal is GRANTED. The Court ORDERS that Exhibit A to the memorandum in support of the Belt Line's motion for partial summary judgment on damages, and the references to Exhibit A in the body of the memorandum in support, shall be and hereby are sealed and omitted from public filing. These materials shall be sealed until 90 days after a final order is entered in this case and then, unless the case is appealed, be returned at that time to counsel for the filing parties.

ENTER this _____ day of _____, 2020.

United States District Court Judge